

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

LAURA FOSTER,

Plaintiff,

v.

KILOLO KIJAKAZI, *Acting
Commissioner of the Social
Security Administration,*

Defendant.

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1:21-CV-1161-RP

ORDER

Before the Court is the report and recommendation of United States Magistrate Judge Susan Hightower concerning Plaintiff Laura Foster’s (“Foster”) Application for Attorney’s Fees Under the Equal Access to Justice Act. (Mot. Atty’s Fees, Dkt. 18) (R. & R., Dkt. 20). Defendant Kilolo Kijakazi (“Kijakazi”), Acting Commissioner of the Social Security Administration, filed a response to Foster’s motion on August 19, 2022. (Def.’s Resp., Dkt. 19). This Court referred the motion to Judge Hightower, and she returned her report and recommendation on October 17, 2022. (R. & R., Dkt. 20). Defendant Kijakazi timely filed objections to the report and recommendation. (Objs., Dkt. 21).

A party may serve and file specific, written objections to a magistrate judge’s findings and recommendations within fourteen days after being served with a copy of the report and recommendation and, in doing so, secure *de novo* review by the district court. 28 U.S.C.

§ 636(b)(1)(C). Because Kijakazi timely objected to the report and recommendation only to clarify that the payment for costs must come from the Department of Treasury, rather than the Social Security Administration, (Objs., Dkt. 21, at 1–2), the Court reviews that portion of the report and recommendation *de novo*. The remainder of the report and recommendation is reviewed for clear

error. *See* Fed. R. Civ. P. 72 advisory committee's note ("When no timely objection is filed, the district court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."). Kijakkazi does not object to the total amount of attorney's fees and costs of \$6,446.89. Having done those reviews, and for the reasons given in the report and recommendation and Kijakazi's objections, (Objs., Dkt. 21), the Court adopts the report and recommendation as its own order, with the administrative clarification that the \$402 in costs be paid to Foster in a separate instrument by the Department of the Treasury (from the Judgment Fund) after certification by the Attorney General.

Accordingly, the Court **ORDERS** that the report and recommendation of United States Magistrate Judge Susan Hightower, (R. & R., Dkt. 20), is **ADOPTED**.

IT IS FURTHER ORDERED that Foster shall be awarded attorney's fees and costs in the amount of \$6,446.89.

IT IS FURTHER ORDERED that Kijakazi shall mail a check made payable to Laura Foster for attorney's fees in the amount of **\$6,044.89** to Michael Kelly, Morgan & Weisbrod, L.L.P., P.O. Box 821329, Dallas, Texas 75382-1329.

IT IS FINALLY ORDERED that Kijakazi shall ensure that Foster receives costs from the Department of the Treasury by mailing a check made payable to Laura Foster in the amount of **\$402** to Michael Kelly, Morgan & Weisbrod, L.L.P., P.O. Box 821329, Dallas, Texas 75382-1329.

SIGNED on July 28, 2023.

A handwritten signature in blue ink, appearing to read "Robert Pitman", written over a horizontal line.

ROBERT PITMAN
UNITED STATES DISTRICT JUDGE